

§ 405.711 Time and place of filing request for reconsideration.

The request for reconsideration shall be made in writing and filed at an office of the Social Security Administration or the Health Care Financing Administration or, in the case of a qualified railroad retirement beneficiary (see 20 CFR 404.368) filed at an office of the Railroad Retirement Board, within 60 days after the date of receipt of notice of initial determination, unless such time is extended as provided in § 405.712. A request for reconsideration which is filed with the intermediary which received the request for payment submitted on behalf of the individual is considered to have been filed with the Health Care Financing Administration as of the date it is filed with the intermediary. For purposes of this section, the date of receipt of notice of the initial determination shall be presumed to be 5 days after the date of such notice, unless there is a reasonable showing to the contrary.

[41 FR 47917, Nov. 1, 1976. Redesignated at 42 FR 52826, Sept. 30, 1977]

§ 405.712 Extension of time to request reconsideration.

If a party to an initial determination desires to file a request for reconsideration after the time for filing such request in accordance with § 405.711 has passed, such party may file a petition with the Social Security Administration or the Health Care Financing Administration or, in the case of a qualified railroad retirement beneficiary, with the Railroad Retirement Board, for an extension of time for the filing of such request. Such petition shall be in writing and shall state the reasons why the request for reconsideration was not filed within the required time. For good cause shown, the Health Care Financing Administration may extend the time for filing the request for reconsideration.

§ 405.714 Withdrawal of request for reconsideration.

A request for reconsideration may be withdrawn by the party to the initial determination who filed the request or by his representative provided that the withdrawal is made in writing and filed at an office of the Social Security Ad-

ministration or the Health Care Financing Administration or, in the case of a qualified railroad retirement beneficiary, with the Railroad Retirement Board prior to the date of the mailing of the notice of reconsidered determination. A withdrawal filed with the intermediary which received the request for payment submitted on behalf of the individual is considered to have been filed with the Health Care Financing Administration as of the date it is filed with the intermediary.

[40 FR 1025, Jan. 6, 1975. Redesignated at 42 FR 52826, Sept. 30, 1977]

§ 405.715 Reconsidered determination.

(a) In reconsidering an initial determination, the Health Care Financing Administration shall review such initial determination, the evidence and findings upon which such determination was based, and any additional evidence submitted to the Social Security Administration or the Health Care Financing Administration or otherwise obtained by the intermediary or the Health Care Financing Administration; and shall make a determination affirming or revising, in whole or in part, such initial determination.

(b) If the request for reconsideration is filed by an individual with respect to an initial determination specified in § 405.704(b)(12), the provider of services who furnished the items or services shall, prior to the making of the reconsidered determination, be made a party thereto. If pursuant to § 405.710(b) a request for reconsideration is filed by a provider of services with respect to an individual determination under § 405.704(c), the individual who was furnished the items or services shall, prior to the making of the reconsidered determination, be made a party thereto.

[55 FR 11021, Mar. 26, 1990]

§ 405.716 Notice of reconsidered determination.

Written notice of the reconsidered determination shall be mailed by the Health Care Financing Administration to the parties and their representatives at their last known addresses. Such notice shall state the specific reasons for the reconsidered determination and shall advise the parties of their right

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to a hearing if the amount in controversy is \$100 or more, or, if appropriate, advise them of the requirements for use of the expedited appeals process (see § 405.718).

[40 FR 53387, Nov. 18, 1975. Redesignated at 42 FR 52826, Sept. 30, 1977]

§ 405.717 Effect of a reconsidered determination.

The reconsidered determination shall be final and binding upon all parties unless a request for a hearing is filed with the Social Security Administration or the Health Care Financing Administration within 60 days after the date of receipt of notice of the reconsidered determination by such parties, or unless the reconsidered determination is revised in accordance with the provisions of § 405.750, or unless the expedited appeals process is used in accordance with § 405.718a. For purposes of this section, the date of receipt of notice of the reconsidered determination shall be presumed to be 5 days after the date of such notice, unless there is a reasonable showing to the contrary.

[41 FR 47917, Nov. 1, 1976. Redesignated at 42 FR 52826, Sept. 30, 1977]

§ 405.718 Expedited appeals process; conditions for use of such process.

In cases in which a reconsideration determination has been made or a higher level of appeal has been reached, an expedited appeals process may be used in lieu of the hearing and Departmental Appeals Board review, if the following conditions are met:

(a) A reconsideration determination has been made by the Secretary; and

(b) The individual is a party referred to in § 405.718b; and

(c) The individual has filed a written request for the expedited appeals process; and

(d) The individual has alleged, and the Secretary agrees, that the only factor precluding a favorable determination with respect to a matter referred to in § 405.704, is a statutory provision which the individual alleges to be unconstitutional; and

(e) Where more than one individual is a party referred to in § 405.718b, each

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and every party concurs in the request for the expedited appeals process.

[40 FR 53387, Nov. 18, 1975. Redesignated at 42 FR 52826, Sept. 30, 1977, as amended at 61 FR 32348, June 24, 1996]

§ 405.718a Expedited appeals process; place and time of filing request.

(a) *Place of filing request.* The request for the expedited appeals process must be made in writing and filed:

(1) At an office of the Social Security Administration or the Health Care Financing Administration; or

(2) In the case of an individual in the Philippines, at the Veterans Administration Regional Office in the Philippines or with a presiding officer; or

(3) In the case of a qualified railroad retirement beneficiary (see 20 CFR 404.368), at an office of the Railroad Retirement Board.

(b) *Time of filing request.* The request for the expedited appeals process must be filed at one of the following times:

(1) No later than 60 days after the date of receipt of notice of the reconsidered determination, unless the time is extended in accordance with the standards set out in 20 CFR 404.925(c). For purposes of this paragraph, the date of receipt of notice of the reconsidered determination shall be presumed to be 5 days after the date of such notice, unless there is a reasonable showing to the contrary; or

(2) If a request for hearing has been timely filed (see § 405.722), at any time prior to the individual's receipt of notice of the presiding officer's decision; or

(3) Within 60 days after the date of receipt of notice of the presiding officer's decision or dismissal, unless the time is extended in accordance with the standards set out in 20 CFR 404.925(c). For purposes of this paragraph, the date of receipt of notice of the presiding officer's decision or dismissal shall be presumed to be 5 days after the date of such notice, unless there is a reasonable showing to the contrary; or

(4) If a request for review by the Departmental Appeals Board has been timely filed (see 20 CFR 404.968) at any time prior to receipt by such individual